

Appl. No. 10/792,008
Response to Office Action mailed Aug. 15, 2006

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Atty Dkt. No. 113642-050

SEP 28 2006

REMARKS

The final Office Action was issued on pending claims 1-15. Claims 1-4, 6, 8 and 9 stand rejected, claims 7 and 10-12 were objected to, claims 13-15 are allowed, and claim 5 stands withdrawn from consideration. In this Response, claims 1, 6-8, 10 and 11 have been amended, claim 5 has been cancelled, and claim 16 has been added. Thus, claims 1-4 and 6-16 are pending in the application.

Applicant invites the Examiner to call Applicant's Representative to discuss any issues with this application.

Examiner Interview and Claim Amendments

Applicant thanks the Examiner for the telephone interview on September 26, 2006. During the interview Applicant's Representative discussed clarifying claim 1 by deleting the term "substantially." Claim 1 has been amended accordingly. As discussed during the telephone interview, the angle bisector in Hersker (US 4,809,399) is substantially greater than 90°. See reproduced Fig. 1 of Hersker on page 7 of the previous Response to Office Action submitted May 12, 2006. The bisector angle of Hersker is the angle between reference planes E' - G', which is substantially greater than a reference plane 90° to reference plane E'. Furthermore, there is no motivation, suggestion or incentive to change the structure of the Hersker handles 1, 2 such that reference planes G' and E' are closer to a 90° angle. Similarly, there is no motivation, suggestion or incentive to change the structure of the Hersker clamps 22, 24 such that reference planes G' and E' are closer to a 90° angle. The Examiner indicated during the interview that deleting "substantially" from claim 1 would likely place the claims in condition for allowance.

Although amended claim 1 does not include the term "substantially," claim 1 may not necessarily be limited to exactly 90° for the bisector angle. The prior art, Hersker, has a bisector angle which is substantially greater than 90°. Accordingly, Applicant's invention, as claimed in claim 1, may include some variation in the bisector angle without reading on Hersker.

Claim 5 has been cancelled as being drawn to a non-elected invention. Claims 6-8, 10 and 11 have been amended to not depend from cancelled claim 5.

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Allowable Claims

In Office Action paragraph 5, claims 13-15 were allowed. In paragraph 6 of the Office Action, claims 7 and 10-12 were objected to as being dependent upon a rejected base claim, but noted as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for the notice of allowed and allowable claims.

New claim 16 has been added which is allowable claim 11 rewritten in independent form, including claim 1 (prior to the current amendment to claim 1) and claim 3.

Thus, Applicant submits claim 16 is allowable.

Claim Rejections – 35 USC §§ 102, 103

In paragraph 2 of the Office Action, claims 1 and 2 were rejected under 35 U.S.C. §102(b) as being anticipated by Hersker (US 4,809,399). In paragraph 4 of the Office Action, claims 3, 4, 6, 8 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hersker in view of Veltz et al. (US 6,470,522). Applicant respectfully disagrees.

Claim 1 has been amended to clarify the claim by deleting the term “substantially.” Claim 1 is allowable over Hersker as discussed above. The dependent claims 2-4, 6, 8 and 9 are allowable at least for the reasons that claim 1 is allowable.

Thus, Applicant submits that the §102 and §103 rejections should be withdrawn.

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CONCLUSION

For the foregoing reasons, Applicant submits that the patent application is in condition for allowance and requests a Notice of Allowance be issued.

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Respectfully submitted,

EVEREST INTELLECTUAL PROPERTY LAW GROUP

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BY



Michael S. Leonard, Reg. No. 37,557

P.O. Box 708

Northbrook, IL 60065

Phone: (847) 272-3400